



**DEPARTMENT OF FAIR EMPLOYMENT  
AND HOUSING  
ENFORCEMENT DIVISION  
DIRECTIVE**

**DIRECTIVE NUMBER  
104  
DISTRIBUTION DATE  
April 4, 2006**

1. **SUBJECT: CONFLICT OF INTEREST**
2. **PURPOSE:** To set forth the procedures for processing complaints when a conflict of interest exists or may appear to exist and to clarify staff responsibility to identify, report, and monitor any potential conflict of interest.
3. **BACKGROUND:** There are situations in which a complaint is filed with the Department of Fair Employment and Housing (DFEH) and a conflict of interest exists or may appear to exist. As a result, it is necessary to establish procedures for handling such instances.
4. **STAFF OBLIGATIONS:** DFEH staff shall immediately report to their supervisor any actual or potential conflicts of interest that may arise in the course of performing their work-related duties. The supervisor, in consultation with DFEH's Ethics Officer, Staff Counsel, or other appropriate managers, will evaluate such situations to determine whether an actual or potential conflict of interest exists for DFEH or the DFEH staff member and ensure compliance with the procedures set forth in this directive.
5. **PROCEDURES:**
  - A. **Types of Situations When a Conflict of Interest Exists or May Appear to Exist:**
    - 1) Complaints in which DFEH is the respondent;
    - 2) Complaints in which a DFEH staff member is related to the complainant or respondent;
    - 3) Complaints in which a DFEH staff member is a respondent or a complainant;
    - 4) Complaints involving businesses or organizations in which a DFEH staff member has a current financial interest;

- 5) Complaints involving businesses or organizations for which a DFEH staff member previously worked or a family member of a DFEH staff member currently works;
- 6) Complaints involving Fair Employment and Housing Commission staff members or Commissioners; and
- 7) Complaints involving an allegation by a complainant or respondent of a conflict of interest.
- 8) There may exist other situations which potentially create a conflict of interest. In all instances, the potential for a conflict of interest must be brought to the attention of the immediate supervisor.

**B. Procedures for Handling Instances of Conflict of Interest:**

- 1) Every possible attempt will be made to avoid the appearance of a conflict of interest. When there is a question as to the possibility of a conflict of interest, the decision as to what action is to be taken will be made by the District Administrator with the concurrence of Staff Counsel, the Regional Administrator and/or DFEH's Ethics Officer. When it is determined that a conflict of interest exists with a particular Consultant, the case will be assigned to another Consultant or sent to another DFEH office. When it is determined that it would be a conflict of interest for the Department to handle the complaint, the case will be transferred to another agency (HUD or EEOC) for investigation, as appropriate.
- 2) In those instances during intake when the Consultant believes a conflict of interest exists, the complaint will be accepted and immediately referred to the District Administrator for a decision as to how the case is to be handled.
  - a) When it is determined that it would be a conflict of interest for the Department to process the case and the complaint can be dual-filed with EEOC or HUD, the complaint will be filed and:
    - (1) Served with a short service letter, using DFEH-200-05 for employment cases and DFEH 700-22 or DFEH 700-23 (new forms) for housing cases, and waived to either EEOC or HUD, as appropriate, for processing.
    - (2) Upon receipt of confirmation from either EEOC or HUD that it will process the complaint, a pre-closure letter will be sent to the complainant explaining that EEOC or HUD will conduct the investigation. The

complaint will then be closed with Closing Category 11, "Processing Waived to Another Agency."

- (3) Closure letter DFEH-200-08E will be used for employment cases. Closure letter DFEH 700-40 will be used for Unruh housing cases. Closure letter DFEH 700-41 will be used for all other housing cases, except Unruh housing.
  - b) When the complaint cannot be dual-filed with EEOC or HUD, the complaint will be filed and:
    - (1) Served as described in B. 2), above.
    - (2) A pre-closure letter will be sent to the complainant explaining that the Department is unable to conduct the investigation. The complaint will then be closed with Closing Category 14, "Administrative Dismissal."
    - (3) Closure letter DFEH-200-08 will be used for employment cases. Closure letter DFEH 700-40 will be used for Unruh housing cases. Closure letter DFEH 700-41 will be used for all other housing cases, except Unruh housing cases.
- 3) In those instances when during the course of the investigation it is determined that a conflict of interest exists for DFEH staff or the Department to handle the complaint, the case will be closed in accordance with the procedures described above.
- 4) The Office of the Attorney General provides legal representation for the Department in a variety of matters. Accordingly, the issue of a conflict of interest may arise during the Department's handling of any complaint of discrimination in which the Office of the Attorney General or the California Department of Justice is named as a respondent. The instructions provided below are to be followed should such a potential conflict of interest issue arise:
  - a) Cases filed with the Department naming the Office of the Attorney General or the California Department of Justice will be investigated and, as appropriate, conciliated between the parties pursuant to Department procedures. All questions concerning a potential conflict arising in any such case will be referred to the District Administrator for consultation with the Chief Counsel.
  - b) In those instances when the Department's investigation

supports a violation of the Fair Employment and Housing Act, the complaint of discrimination, progress memo, and the investigative file will be referred to the Department's Legal Division.

- c) Upon receipt, the Legal Division will inform the complainant that the Office of the Attorney General/CA Department of Justice provides legal services for the Department.
  - (1) The Legal Division will also inform the complainant that he/she has the option of either pursuing the matter:
    - (a) Before the Fair Employment and Housing Commission or
    - (b) In court without the Department's involvement or
    - (c) In some instances, before the Superior Courts of California with the Department prosecuting the case.
  - (2) If the case was dual-filed with the Equal Employment Opportunity Commission (EEOC), the Legal Division will also inform the complainant that he/she may request to have the case waived to the EEOC for further processing.
- 5) Complaints involving Unruh or Ralph Act violations:
  - a) When the District Administrator determines during intake that it would be a conflict of interest for DFEH staff or the Department to handle the complaint, the case will be accepted, served using short service letter DFEH 200-05, and immediately closed with Closing Category 14, "Administrative Dismissal," using closure letter DFEH-200-08.
  - b) When it is determined during the course of the investigation that it would be a conflict of interest for DFEH staff or the Department to handle the complaint, the case will be closed in accordance with the procedures described above.

6. **APPROVAL:**

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Suzanne M. Ambrose, Director

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Date